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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,771	02/16/2005	Luigi Panzetti	BUG7-43177	3401
116 7590 03/03/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER CHIMIAK, EMILY ANN				
ART UNIT		PAPER NUMBER		
1791				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/524,771

## Applicant(s)

PANZETTI, LUIGI

## Examiner

EMILY CHIMIAK

## Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 02/16/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of claims 1-4 in the reply filed on 30 November 2007 is acknowledged.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. ***Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.*** As to claim 2, it is unclear what is meant by "cross-section perimeter of the bottle," as a bottle neck and bottle base have different cross-section perimeters (claim 2 lines 4-5). For the purpose of examination, it is assumed that the "cross-section perimeter" is the largest cross-section perimeter in accordance with Figure 3 of the drawings. Claims 3 and 4 do not avoid the rejection because they depend from claim 2.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. ***Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Doherty (US 4199851).***

As to claim 1, Doherty discloses a process for forming tubular labels made of plastic films, i.e. heat shrinkable films (28), and adhering them on bottles (40), characterized by the fact that it provides the transfers of bottles or containers into the formed tubular labels by a down movement of said bottles or containers into the sleeve (*col. 3 lines 25-46*).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. ***Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doherty as applied to claim 1 above, and further in view of the admitted prior art and Ashcroft (US 3959065).***

As to claim 2, the reference further discloses the following steps:

- ❖ guiding and cutting a web (20) of heat shrinkable film to obtain precut labels (*col. 2 lines 47-60*). It is noted that the precut labels have a length slightly longer than the cross-section perimeter of the bottle because the trailing edge (36) and leading edge (35) will be overlapped to form a label that must be large enough in diameter to telescope over the bottle (*col. 3 lines 25-47*).
- ❖ the step of transferring the precut label by a drum provided with areas for drawing the precut label (*col. 3 lines 25-35*), characterized by the fact it comprises the additional steps of:
  - winding the precut label on a rotating tubular-shaped plate (27) that will support the bottle to be labeled on its upper base (30). *see col. 3 lines 25-47*.
  - sealing both vertical overlapped ends of the precut label in a predetermined position for obtaining a tubular label, said sealing step comprising heat sealing (*col. 3 lines 32-33*).
  - removing the label from the tubular plate and transferring the plate and a container on it in order to insert the latter into the tubular label in the position in which the label will be located (*col. 3 lines 37-47 and col. 4 lines 3-23*).
  - heating the container to heat shrink the label on the container (*col. 4 lines 23-27*).

One reading the reference would appreciate storing the flat label material (20) on a reel in order to conveniently store a large amount. In any event, the admitted prior art teaches

that it is known to store flat label material on reels (*page 1 of applicant's specifications, lines 20-21*). It would have been obvious to one of ordinary skill in the art at the time of invention to take the flat label material in Doherty from a reel, as reels are a conventional way to store label material as shown by the admitted prior art.

Doherty discloses that the component movements can be controlled by any suitable means, but does not teach a machine that rests the bottle on top of the plate during the winding process.

However, Ashcroft teaches such an arrangement in a bottle-labeling machine (col. 3 lines 32-55).

It would have been obvious to one of ordinary skill in the art at the time of invention to convey the bottles on a path that is coaxial with the winding machine of Doherty wherein the bottles rest on the plate during the winding operation as taught by Ashcroft to eliminate the time required for placing the bottle on the plate after the label is formed on the plate.

As to claim 3, the reference teaches that the step of winding the precut label on the tubular plate is performed by establishing a negative or positive air pressure on the side surface of the plate (*col. 3 lines 17-22*).

As to claim 4, removing the tubular label from the tubular plate is performed by establishing a pressure or an air jet on the inner surface of the label (*col. 4 lines 3-22*).

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMILY CHIMIAK whose telephone number is (571)272-6486. The examiner can normally be reached on Monday-Friday 8:30-5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)272-6486. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John L. Goff/  
Primary Examiner, Art Unit 1791

EAC